

REMARKS

Interview request

Applicants respectfully request a telephonic interview after the Examiner has reviewed the instant response and amendment. Applicants request the Examiner call Applicants' representative at (858) 720-5133.

Status of the Claims*Pending claims*

Claims 1 to 16, 21 to 36 and 39 to 47 are pending. Claims 14 and 22, are withdrawn from consideration. Claims 1 to 13, 15, 16, 21, 23 to 36 and 39 to 47, are pending and under consideration.

Species Restriction Requirement

The Office alleged that the pending claims of the application are directed to ten (10) patentably distinct inventions under 35 U.S.C. §121, as set forth in detail on page 2 of the OA. Applicant is required to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

The Species Election

Applicants elect the species bacterioplankton, claim 43, which specifically lists the several exemplary species of microorganisms, including bacterioplankton.

When the elected species is held to be allowable, Applicants are entitled to consideration (examination) of additional species; if all species are held to be allowable, a generic claim should be allowed (MPEP §809.02(a); pg 800-53-54, 8th Edition, Rev. 6, Aug. 2006).

CONCLUSION

It is believed that the all claims pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket No. 564462008100.

As noted above, Applicants have requested a telephone conference with the undersigned representative to expedite prosecution of this application. After the Examiner has reviewed the instant response and amendment, please telephone the undersigned at (858) 720-5133.

Dated: November 2, 2007

Respectfully submitted,

Electronic signature: /Gregory P. Einhorn/
Gregory P. Einhorn

Registration No.: 38,440
MORRISON & FOERSTER LLP
12531 High Bluff Drive, Suite 100
San Diego, California 92130-2040
(858) 720-5133 direct line
general office 858 720 5100
fax direct 858 523 5933
fax office 858 720 5125
email geinhorn@mofo.com